

7358
DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-190926

DATE: August 14, 1978

MATTER OF: Gerald K. Schultz - Temporary quarters -
period interrupted by temporary duty travel

- DIGEST:
1. Employee, while in temporary quarters, performed official travel during 3/4's of 2 days, for which time he was paid per diem. If he chooses, he does not have to count those 2 days as part of his 30-day entitlement to temporary quarters. He may, instead, be paid temporary quarters allowance for the 2 days following the date on which his entitlement would otherwise have expired.
 2. The rate of per diem for a member of an employee's family performing permanent change-of-station travel, is determined on the basis of the age of the family member at the time the travel is performed.
 3. There is no entitlement to the additional allowance for shipments of household goods originating in or terminating in, certain metropolitan areas, prescribed in GSA Bulletin FPMR A-2, Supplement 67, Attachment A, where the employee moves his household goods himself.

This responds to a letter with attachments, dated December 9, 1977, from Ms. Ruth W. Oxley, a certifying officer of the Bureau of Reclamation, Department of the Interior, requesting a decision as to the entitlement of Mr. Gerald K. Schultz, an employee of the Bureau, to certain relocation allowances.

I

Mr. Schultz was transferred from Albany, New York, to Amarillo, Texas, in 1976. He was authorized temporary quarters subsistence allowance for 30 days incident to this transfer. He reported for duty in Amarillo on December 23, 1976, entering temporary quarters there on December 27, 1976, at 12 a.m. He performed official travel on a temporary duty assignment from 7 a.m., on January 19, 1977, until 2:15 p.m., on January 20, 1977. Mr. Schultz was paid per diem for three quarters of a

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day for both days he performed this travel. One quarter of his expenses for each of these days was treated as temporary quarters subsistence expenses. The certifying officer counted January 19, and 20, each as 1 day of temporary quarters for purposes of determining when Mr. Schultz's entitlement to temporary quarters allowance ended, and, accordingly, treated Mr. Schultz's 30-day entitlement as ending on January 25, 1977. Mr. Schultz, however, thinks that his entitlement should not have expired until noon of January 27, because of the 1-1/2-day period during which he was away from his station and for which he did not receive temporary quarters allowance.

An employee's entitlement to temporary quarters allowance is governed by Part 5 of the Federal Travel Regulations (FPMR 101-7, May 1973). Paragraph 2-5.2a thereof provides in pertinent part:

"Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family * * * shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters * * *. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations or for circumstances attributable to official necessity, as, for example, an intervening temporary duty assignment."

Paragraph 2-5.2g of Part 5 provides:

"Effect of partial days. In determining the eligibility period for temporary quarters, subsistence expense reimbursement and in computing maximum reimbursement when occupancy of such quarters for reimbursement purposes occurs in the same day that en route travel per diem terminates, the period shall be computed beginning with the calendar day quarter after the last calendar day quarter for which travel per diem described in 2-2.1 and 2-2.2 is paid, except that when travel is 24 hours or less the period shall begin with the calendar day quarter during which travel per diem

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terminates. In all other cases, the period shall be computed from the beginning of the calendar day quarter for which temporary quarters subsistence reimbursement is claimed, provided that temporary quarters are occupied in that calendar day. The temporary quarters period shall be continued for the day during which occupancy of permanent quarters begins."

We have held that the term "30 consecutive days" as used in paragraph 2-5.2a, refers to 30 calendar days and that if, on the first day for which temporary quarters subsistence expenses are claimed, only part of the expenses of that day are claimed (because, for example, the employee receives per diem for the earlier part of that day), that day, nonetheless, counts as 1 full day of the period of temporary quarters subsistence allowance authorized the employee. 57 Comp. Gen. 6 (1977); 56 Comp. Gen. 15 (1976).

We have not, however, ruled on the question of what days must be counted as part of the employee's entitlement when, as in this case, an employee's period of entitlement is interrupted because of "circumstances attributable to official necessity", and, we are unaware of any statutory or regulatory provision directly governing this question. However, paragraph 2-5.2g provides that in cases involving partial days, other than en route travel, the period of temporary quarters allowance is to be computed from the beginning of the calendar quarter for which temporary quarters allowance is claimed. Return travel from temporary duty is not considered en route travel. Nor does paragraph 2-5.2g directly address the question of when the 30-day period is interrupted by the employee's departure from his new duty station for reasons of official necessity. Accordingly, and since paragraph 2-5.2a provides that the period of consecutive days may be interrupted for circumstances such as temporary duty, we conclude that the employee may elect to extend his temporary quarters period by not claiming temporary quarters allowance on the days of his departure and return from temporary duty rather than be reimbursed for the interrupted days.

Thus, if Mr. Schultz so chooses, he may be reimbursed for his temporary quarters subsistence expenses, up to the maximum permissible amount, incurred on January 26, and 27, instead of those incurred on January 19, and 20. He is still limited to a total of

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30 days for temporary quarters. Hence, he may not be reimbursed for the expenses he incurred on both 2-day periods.

II

Mr. Schultz's dependents commenced travel to Amarillo on April 2, 1977, and arrived there on April 7. His daughter, Lora, became 12 years old on April 3, 1977. The certifying officer, in computing Lora's per diem for this travel, used the rate for an 11 year old since she was 11 when Mr. Schultz reported for duty at Amarillo in December 1976. Mr. Schultz thinks his daughter's per diem should be determined on the basis of her age at the time she performed the travel. We agree. It is our view that the per diem is determined on the basis of the daughter's age at the time she performed the travel, that is, her per diem for April 2, should be at the rate for children under 12, and for April 3-7, at the rate for children 12 and over. See paragraph 2-2.2b(2) of the Federal Travel Regulations.

Per diem is payable on behalf of the members of an employee's family when performing permanent change-of-station travel, to compensate the employee for the extra subsistence expenses incurred as a result of performing travel. Bornhoft v. United States, 137 Ct. Cl. 134 (1956). The rates are higher for older children because, presumably, they incur greater expenses. Accordingly, the rate of per diem for a member of an employee's family should be determined on the basis of the age of that member at the time travel is performed.

III

Finally, Mr. Schultz personally moved 11,000 pounds of household goods between Albany and Amarillo by truck. He thinks he is entitled to the additional allowance for metropolitan areas of \$0.50 per hundred pounds payable for shipments originating in or terminating in, Albany, and moving by common carrier, provided in GSA Bulletin FPMR A-2, Supplement 67, Attachment A, April 29, 1977.

The allowance for shipments originating in metropolitan areas, however, is specifically payable only where the shipment moves by common carrier (GSA Bulletin FPMR A-2, Supplement 67, Attachment A).

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Attachment A was apparently issued under authority granted in 5 U.S.C. § 5724(c) (1970) and Section 1(6) of Executive Order No. 11609, July 22, 1971 (36 Federal Register 13747), and its issuance appears to have been a valid exercise of that authority. Under its provisions there is no basis for paying the additional allowance for shipments originating in metropolitan areas to Mr. Schultz.

Deputy

R. F. K. 11/14
Comptroller General
of the United States